

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

COMPLETE NUTRITION
FRANCHISING, LLC, and R2
DISTRIBUTION, LLC,

Plaintiffs,

vs.

J. HOWELL, LLC, JAMES P. HOWELL,
and JAMES C. HOWELL, deceased,

Defendants.

8:17CV3170

ORDER

This matter was filed by the plaintiff on December 28, 2017. [Filing No. 1](#). On June 29, 2018 the undersigned magistrate judge filed two orders, docketed at Filing Nos. 31 and 32. In [Filing No. 31](#), it was recommended to the Honorable John M. Gerrard that a default and/or default judgment be entered against Defendant J. Howell, LLC without further notice. [Filing No. 32](#) ordered that Defendants James C. Howell and James P. Howell were given until July 23, 2018 to obtain the services of counsel or file a notice of intent to pursue this case without the assistance of counsel.

On July 16, 2018, Judge Gerrard adopted the Findings, Recommendation, and Order of the undersigned magistrate judge that a default and/or default judgment be entered against Defendant J. Howell, LLC. [Filing No. 35](#). An entry of default against Defendant J. Howell, LLC was entered in this case on the same day. [Filing No. 36](#).

On July 20, 2018, Judge Gerrard filed an Order which stated that it had been suggested to the Court that Defendant James C. Howell is deceased. Accordingly, it was ordered that "On or before October 18, 2018, Plaintiffs shall

either substitute a proper party or show cause why substitution was not required.” [Filing No. 37](#). The show cause deadline as to Defendants James C. Howell and James P. Howell set by the Court in [Filing No. 32](#) was stayed pending substitution of parties. See [Filing No. 37](#).

Filing Nos. 35, 36, and 37 were mailed to the addresses of record for J. Howell, LLC and James P. Howell and the mailings were returned as “undeliverable.” (See Filing Nos. 38, 39, 40, 41 and 42) Plaintiffs have taken no action to further progress this case.

Accordingly,

IT IS ORDERED:

- 1) Plaintiff is given until November 13, 2018, to show cause why Plaintiff’s claims should not be dismissed for want of prosecution.
- 2) The clerk shall mail a copy of this order to Defendants at their addresses of record.

Dated this 22nd day of October, 2018.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge